

Commodity Credit Corporation, USDA

§ 1410.12

cost-share assistance has not been received for wetland restoration on the same land. In addition to the cost-share limitation in §1410.41, an additional one-time financial incentive may be provided to encourage restoration of the hydrology of the site.

§ 1410.11 Farmable Wetlands Program.

(a) In addition to other allowable enrollments, land may be enrolled in this program through the Farmable Wetlands Program (FWP) within the overall Conservation Reserve Program provided for in this part.

(b) As determined by CCC, eligible owners and operators may enroll land in FWP provided that the land:

(1) Is a wetland, including a converted wetland, as determined by CCC, that has been planted or considered planted to an agricultural commodity, as defined in §1410.2, in 3 of the 10 most recent crop years and that does not exceed the size limitations of this section;

(2) Is enrolled to be a constructed wetland that is to be developed to receive flow from a row crop agriculture drainage system and is designed to provide nitrogen removal in addition to other wetland functions and that does not exceed the size limitations of this section;

(3) Was a commercial pond-raised aquaculture facility in any year during the period of calendar years 2002 through 2007; or

(4) Was cropped, after January 1, 1990, and before December 31, 2002, at least 3 of 10 crop years, was subject to the natural overflow of a prairie wetland, and does not exceed the size limitations of this section.

(c) In addition, land may be enrolled in FWP if the land is buffer acreage that provides protection for and is contiguous to land otherwise eligible under paragraphs (b)(1), (b)(2), or (b)(4) of this section, subject to other provisions of this section.

(d) Total enrollment in CRP under this section may not exceed 1 million acres. In addition, the maximum size of a land enrolled under this section may not exceed, as determined by CCC:

(1) 40 contiguous acres for land made eligible by paragraph (b)(1) of this section;

(2) 40 contiguous acres for land made eligible by paragraph (b)(2) of this section;

(3) 20 contiguous acres for land made eligible by paragraph (b)(4) of this section; or

(4) A suitable buffer as determined by the Deputy Administrator for lands added under paragraph (c) of this section.

(e) All participants subject to a CRP contract under this section must agree to establish and maintain, as appropriate, the practice described in paragraph (b) of this section to the maximum extent possible, as determined by CCC, in accordance with NRCS FOTG including, as appropriate, restoring the hydrology of the wetland and establishing vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species in shallow water areas), as determined by CCC.

(f) Offers for contracts under this section must be submitted under continuous sign-up provisions as authorized in §1410.30.

(g) Except as otherwise determined by CCC, all other requirements of this part apply to enrollments under this section, and CCC may add such other requirements or conditions as it deems necessary. Such additional conditions include, but are not limited to, payment limitations, adjusted gross income limitations, and limitations on the amount of acreage that can be enrolled in any one county.

[74 FR 30912, June 29, 2009]

§ 1410.12 Emergency Forestry Program.

(a) In addition to other allowable enrollments, certain non-industrial private forest land located in Presidential- or Secretarial-declared primary disaster counties that suffered damage from hurricanes in calendar year 2005 may be enrolled through the Emergency Forestry Conservation Reserve Program (EFCRP) provided for in this section.

(b) Owners and/or operators may enroll non-industrial private forest land, as defined in §1410.2, in the CRP provided that the private non-industrial forest land:

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(1) Has merchantable timber (timber on land on which the average tree has a trunk diameter of at least six inches measured at a point no less than four and one-half feet above the ground); and

(2) Has experienced a loss of 35 percent or more of merchantable timber in a 2005 calendar year hurricane-affected county due to 2005 hurricanes.

(c) The provisions of §1410.4 do not apply to this section.

(d) Any overall acreage enrollment limit imposed on CRP shall not apply to acreage enrolled under this section.

(e) All participants subject to a CRP contract entered into pursuant to this section must agree:

(1) To restore the land, through site preparation and planting of, to the maximum extent practicable, native species or similar species as existing prior to hurricane damages as may be specified in the contract, and comply with other requirements as may be specified in the contract;

(2) To establish temporary vegetative cover; and

(3) That the contract term shall be for a period of 10 years, during which time standing timber may not be harvested from the enrolled land except as may be approved by CCC in the conservation plan as part of the normal maintenance of the forest land.

(f) Offers for contracts under this section shall be submitted under continuous signup provisions as authorized in §1410.30.

(g) In evaluating contract offers to which this section applies, different factors, as determined by CCC, may be considered for priority purposes. These include but are not limited to soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

(h) In return for a contract entered into under this paragraph, a participant may opt for:

(1) Annual rental payments authorized by §1410.42, except that the payment rate shall be equal to:

(i) The average rental rate for CRP contracts in the county in which the land is actually located; or

(ii) In the case where no CRP contracts are enrolled in a county, the average rental rate will be the CRP rate

applicable to a nearby similarly-situated county.

(2) In lieu of the annual payments provided for in paragraph (h)(1) of this section, lump sum payment equal to the present value of the total amount of annual rental payments that would otherwise be paid under paragraph (h)(1) of this section.

(i) Cost-share assistance authorized under §1410.40 may be reduced by the value of salvaged timber or timber products which are removed to prepare the site for replanting.

(j) The provisions of §1410.7(c), which concern enrollment limits, do not apply to contracts to which this section applies.

(k) To avoid duplicate payments, participants under this section are not eligible to receive EFCRP funding for land on which the participant has or will receive funding under any other program that covers the same expenses.

(l) All other requirements of this part shall apply to enrollments under this section.

[71 FR 31917, Jun 2, 2006]

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§ 1410.20 Obligations of participant.

(a) All participants subject to a CRP contract must agree to:

(1) Carry out the terms and conditions of such CRP contract;

(2) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines that the participant cannot fully implement the conservation plan for reasons beyond the participant's control, and CCC agrees to a modified plan. However, a contract will not be terminated for failure to establish an approved vegetative or water cover on the land if, as determined by the Deputy Administrator:

(i) The failure to plant or establish such cover was due to excessive rainfall, flooding, or drought;

(ii) The land subject to the contract on which the participant could practicably plant or establish to such cover is planted or established to such cover; and